

**Notice of Allowability**

Application No.

09/802,169

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Clement B. Graham

Art Unit

3692

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/22/2007.
2. ☒ The allowed claim(s) is/are 1-22, 43-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

FRANTZY POINVIL  
PRIMARY EXAMINER

**EXAMINER'S AMENDMENT**  
**Allowable Subject Matter**

Claims 1, 4, 11, 18, 24 are allowed.

The following is a statement of reasons for indication of allowable subject matter.  
The prior art fails to teach, or suggest, the limitations of:

" as a result of registration, is eligible to receive opportunities from the market process to provide a price that improves upon a price wherein trading processes in said plurality of trading processes that are not registered as being in the crowd for the item are not eligible to receive the notice of proposed pairing price nor provide an improved price to the market process in response".

" (as in independent Claims 1, 4, 11, 18, 24,);

**Hambrecht et al (US Patent No: 6, 629, 082)** discloses an Auction Pricing Mechanism in accordance with the invention is a method of price determination for capital formation that can result in substantial benefits for companies seeking to raise capital through the sale of equity into the public market. An equity offering employing an auction in accordance with a present embodiment of the invention differs substantially from traditional underwritten public offerings in which underwriters employ a "book building" sales technique. In a "book building" process, the price at which shares are sold is determined by negotiation. A lead underwriter represents an offering company to investors and the investors to the offering company in the negotiation. In offerings conducted by auction in accordance with the invention, equity will generally be sold directly to the public by an offering company at a price determined by investors bidding for shares. Bids may be subject to a minimum price or range set by the offering company. An may serve as the Auction Advisor, and may provide a system upon which the auction is run and assists the offering company in marketing the offering and running the auction. Offerings conducted by such auction process may be run on the basis of a specific number of shares to be sold or amount of capital to be raised.

Neither this Patent, alone nor in combination with others, disclose nor teach the feature of "as a result of registration, is eligible to receive opportunities from the market

process to provide a price that improves upon a price wherein trading processes in said plurality of trading processes that are not registered as being in the crowd for the item are not eligible to receive the notice of proposed pairing price nor provide an improved price to the market process in response".

**Lutnick et al (US Patent : 6, 850, 907)** discloses to control trading between many Participants, a level of hierarchy is set. A Participant who Hits a Bid or Lifts an Offer is promoted to a new level known as the "Aggressor". By acting on a Bid or Offer, the Aggressor defines (and thus establishes) the Active Side of the trade. For example, if the Participant hits a Bid, selling becomes the Active Side of the trade and buying turns passive. However, if the Participant takes an Offer, buying is active. This is an important practical consideration, as by some conventions the Active Side pays commissions on the ensuing transactions. When a Price Improvement trade takes place, however, the commission on this trade can be divided among the Participants in the trade. This allocation of commissions is premised on the notion that the active Participants are taking advantage of liquidity--while the Passive Side is supplying liquidity to the market, and on the notion that if a better price can be obtained during Price Improvement trading, a passive trader is provided with value for which he/she is willing to pay. Further combinations of commission allocation are warranted to encourage trading, e.g., choices among volume discounts, annual fixed fees, both sides pay, and paying based on time and place of execution.).

Neither this Patent, alone nor in combination with others discloses nor teach, as a result of registration, is eligible to receive opportunities from the market process to provide a price that improves upon a price wherein trading processes in said plurality of trading processes that are not registered as being in the crowd for the item are not eligible to receive the notice of proposed pairing price nor provide an improved price to the market process in response".

**BARRON ONLINE : EXTREME MARKETS, Evelyn Ellison Twitchell, Barron's**  
Chicopee: April 10. 2000. Vol. 80, Iss; pg. 36, 1 pgs.) discloses THAT GREAT  
SCREAM HEARD ON Wall Street around midday Tuesday came from momentum

investors being squeezed out of the market. Indeed, Tuesday's sickening volatility has shaken up some investors - so much, apparently, that they're beginning to look at things they only recently shunned: earnings, sales growth and cash flow.

"What's going on, to a great extent, is a correction of something that just had to be corrected: the extreme nature of the momentum market," says Stuart Schweitzer, global investment strategist at J.P. Morgan Investment Management.

Last year, many investors had a "what-goes-up-must-- go-up" mentality, he says. But now, "fundamental analysis is going to matter again." Others agree.

"The market is probably going to attach much more weight to visibility of earnings rather than pure momentum plays," says John Ryding, senior economist at ①Bear Stearns.

That's been the hope of many pros, but now they think it's for real. They like sectors from financials and health care to retailers and even some technology stocks.

The people who spoke with Barron's Online most often cited favorable near-- term prospects for energy and basic materials stocks, where earnings growth this year could eclipse that of some high-- tech groups, such as computers and telecommunications. And despite rising U.S. interest rates, a strong worldwide economy is fueling these companies' growth. Forecasters have recently ratcheted up GDP growth projections for the U.S. and other countries, Salomon Smith Barney reports.

Although crude oil has fallen from its recent price peak above \$34 per barrel, at \$25 it's still at twice last year's levels. And the pros expect it to hold in the \$22-- \$24 range for most of the year.

"[Energy] companies can make very handsome profits with oil at these levels," maintains Ben Hock; manager of the AIM Global Growth Fund. That's why he likes the stocks of exploration-- and-production company Apache and oil-services firms ①Halliburton and ①Schlumberger.

①Halliburton, the largest oil-service company in revenues, has been squeezing costs from its 1998 merger with Dresser Industries, and netted around \$600 million in cash from the recent sale of Dresser Rand and Dresser Pump, according to Jefferies & Co.

At Thursday's closing price of 39 3/16, ①Halliburton trades at about 46 times First Call's consensus estimate for calendar 2000 earnings of 86 cents per share. That's a 25% discount to ①Schlumberger's price/earnings multiple of 61. And First Call projects ①Halliburton will grow its earnings by some 84% between 2000 and 2001. Plus, the stock is about 24% off its 52-week high of 51 3/4, set in August.

Neither this non-patent literature, alone nor in combination with others, alone nor in combination with others, disclose nor teach the feature of "as a result of registration, is eligible to receive opportunities from the market process to provide a price that improves upon a price wherein trading processes in said plurality of trading processes that are not registered as being in the crowd for the item are not eligible to receive the notice of proposed pairing price nor provide an improved price to the market process in response ".

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement Graham whose telephone number is (571) 272-6795. The examiner can normally be reached on 8:30am-5:00pm M-F.

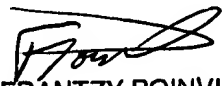
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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